BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

IN THE MATTER OF THE GENERIC INVESTIGATION INTO NUMBER RESOURCE OPTIMIZATION AND IMPLEMENTATION OF NUMBER POOLING IN ARIZONA.	Docket No. T-00000A-01-0076 **QWEST CORPORATION'S WRITTEN COMMENTS ON PROPOSED ORDER**

Pursuant to the Arizona Corporation Commission ("Commission") Staff Memorandum and Proposed Order issued August 14, 2001 in the above-referenced docket, Qwest Corporation ("Qwest") respectfully submits the following written comments on issues (E), (G) and (I).

I. INTRODUCTION

In this docket, the Commission seeks to implement TBNP in order to conserve number resources in Arizona. Implementation of TBNP[1] is within the exclusive jurisdiction of the Federal Communications Commission ("FCC"). The Commission has no authority to implement TBNP, absent a delegation of authority by the FCC. The FCC has delegated conditional authority to the Commission to implement TBNP. One of the express conditions of that delegation is the requirement that the Commission allow all affected carriers to recover the costs they incur as a result of

[1] TBNP stands for thousands-block number pooling. For convenience, Qwest refers to thousands-block number pooling by its acronym, TBNP.

implementing TBNP in a competitively neutral manner. So long as carriers whose prices the Commission does not regulate can change their prices to recover their own costs of the Arizona trial, it would not be competitively neutral to deny price regulated carriers, including price-capped carriers such as Qwest, a mechanism by which they can recover their costs of the Arizona trial. Accordingly, Qwest and other carriers whose prices the ACC regulates must be permitted to employ an end-user surcharge or some other incremental cost recovery mechanism to recover their costs.

Furthermore, the FCC's delegation of authority specifically directed state commissions to "…ensure that an adequate transition time is provided to carriers to implement thousands-block number pooling in their switches and administrative systems.[2]" Accordingly, the Commission must give carriers, including Qwest, sufficient time to implement TBNP. The Staff's proposed implementation schedule does not provide adequate time for Qwest to implement TBNP without jeopardizing other existing customer service commitments and Commission orders. Specifically, Staff's proposed implementation schedule creates conflicts with the deployment timelines for the Arizona 520 area code relief that is already underway. Staff's proposed implementation schedule also fails to take into account that the Qwest technicians who must perform the work necessary to execute

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[2] See Numbering Resource Optimization Order, DA 00-1616, released July 20, 2000, paragraph 19.

the TBNP deployment are already scheduled to do other vital work in January and February 2002.

II. STATEMENT OF FACTS

A. In order to conserve telephone numbers, the Commission seeks to implement TBNP trials, which are under the exclusive jurisdiction of the FCC.

Because of the relatively rapid growth of competition in the telecommunications industry and the concomitant demand for numbers for, among other things, landline telephones, fax machines, wireless telephones, and modems for Internet access, numbering resources in the United States have experienced a severe strain. This strain has resulted in numerous area code splits, overlays, and other number optimization measures to accommodate the need for new numbers. The FCC, which has exclusive jurisdiction over numbering administration in the United States, has been examining additional methods of conserving number resources for the past several years in its Numbering Resource Optimization docket. Additionally, state commissions, such as the Arizona Commission, have investigated number conservation tactics, pursuant to limited authority delegated to them by the FCC. This docket is an investigation into ways to conserve number resources in Arizona.

Under the current North American Numbering Plan ("NANP"), telephone numbers are assigned to carriers in blocks of 10,000, regardless of the actual need for, or use of, those numbers. The increase in the number of competitive providers requesting blocks of numbers has resulted in many numbers being assigned but

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unused. TBNP, as the name suggests, allows telephone numbers to be assigned to carriers in blocks of 1,000, rather than 10,000. When implemented, TBNP would allow carriers to submit numbering requests in blocks of 1,000 with the intention that TBNP will more closely approximate their immediate numbering needs, thus resulting in better number utilization. The Commission Staff, therefore, has recommended that TBNP should be pursued in Arizona as a method of conserving telephone numbers.

The Commission, however, has no independent authority to implement TBNP. Rather, Section 251(e)[3] of the Act grants the FCC exclusive jurisdiction over telephone numbering issues in the United States. Specifically, Section 251(e)(1) provides:

> (e) Numbering Administration.
>
> (1) Commission authority and jurisdiction. — The Commission shall designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. **The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States.** Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities all or any portion of such jurisdiction.

47 U.S.C. § 251(e)(1) (emphasis added). The FCC has exclusive jurisdiction over numbering administration, including TBNP, but also may delegate authority to the state commissions. On December 23, 1999, the Commission filed a petition with the FCC seeking interim, delegated authority to implement TBNP. At the

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[3] 47 U.S.C. § 251(e)(1).

time, several other state commissions had filed similar petitions that asked the FCC to delegate its authority to them to conduct TBNP trials while the FCC Numbering Resource Optimization docket was proceeding.

B. The FCC exercised its jurisdiction to implement national TBNP and established requirements for TBNP, including allowing carriers to recover the costs associated with TBNP.

While the Commission's petition was pending before the FCC, the federal agency issued the First Report and Order in its Numbering Resource Optimization docket.[4] The First Report and Order generally describes strategies to ensure that numbering resources in the United States are used efficiently. Among other things, the First Report and Order recognizes that TBNP is an effective method of conserving telephone numbers and requires implementation of TBNP on a national basis. Specifically, the First Report and Order states:

> Pursuant to our authority under section 251(e) of the 1996 Act, we adopt thousands-block number pooling as a mandatory nationwide numbering resource optimization strategy. Although we set forth the national pooling framework in this Report and Order, we will roll out thousands-block number pooling at the national level after we select a national pooling administrator.

First Report and Order at ¶ 122 (footnotes omitted). The FCC, therefore, has determined that TBNP is a matter of federal concern and that the federal agency will implement TBNP on a

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[4] *In the Matter of Number Resource Optimization,* Report and order and Further Notice of Proposed Rulemaking, CC Docket No. 99-200, 15 FCC Rcd 7574, 2000 FCC LEXIS 1691 (FCC 00-104 rel. Mar. 31, 2000) (the "First Report and Order").

national scale.

In addition to finding that TBNP is necessary, the First Report and Order also establishes certain core principles for TBNP. One of those core principles is cost recovery. Indeed, the FCC was compelled to adopt cost recovery standards by the Act: "Section 251(e)(2) ***requires*** that 'the cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.'" First Report and Order at ¶ 192 (emphasis added).[5] Because of Congress' express directive that carriers be allowed to recover the costs associated with numbering administration measures, including TBNP, the FCC was required to adopt principles relating to cost recovery, which it did.

The FCC adopted cost recovery principles similar to those established for local number portability ("LNP") because "the technical requirements of thousands-block number pooling and number portability are very similar" and "adopting different methods of cost recovery would create an unnecessary administrative burden on the carriers and the numbering

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[5] Section 251(e)(2) provides:

> (2) Costs. The cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.

administrator."[6] First Report and Order at ¶ 193. One of the key cost recovery tenets adopted by the FCC is the principle that, like cost recovery for LNP, cost recovery for TBNP is within the exclusive purview of the federal government. The FCC agreed with parties, including Qwest, who argued that the FCC "has authority to provide an exclusively federal distribution and recovery mechanism for the intrastate and interstate costs of thousands-block number pooling." First Report and Order at ¶ 196. The FCC decided, "the costs of numbering administration, specifically the costs of thousands-block number pooling, will be recovered through an exclusively federal recovery mechanism." *Id.* Ultimately, therefore, it is through a federal mechanism that carriers will recover the costs of TBNP.[7]

One of the reasons for implementing an exclusively federal cost recovery mechanism was to ensure that the competitive neutrality requirements of Section 251(e)(2) are satisfied. First Report and Order at ¶ 196. In the First Report and Order, the FCC decided that the two-part test established in the FCC's

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[6] LNP is a prerequisite to TBNP because TBNP uses the Location Routing Network ("LRN") architecture that supports LNP. Similar to a number that has been "ported" pursuant to LNP, the area code-central office code (NPA-NXX) portions of a number that has been pooled pursuant to TBNP "no longer necessarily identifies the switch or service provider associated with the service." Rather, that pooled number must be routed through the LRN database. "Thus, number pooling can be implemented only where LRN LNP has been deployed." First Report and Order at ¶ 117.

[7] That is why, as explained herein, the cost recovery mechanism that the Commission is required to adopt must transition to the federal plan.

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LNP docket for measuring whether cost recovery for LNP was competitively neutral also applies to TBNP. The FCC applied the test as follows:

> [T]he costs of thousands-block number pooling: (a) should not give one provider an appreciable, incremental cost advantage over another when competing for a specific subscriber; and (b) should not have a disparate effect on competing providers' abilities to earn a normal return.

First Report and Order at ¶ 199. The two-part test implements the Act's competitive neutrality requirement because it "ensures that carriers bear the costs on a competitively neutral basis, in comparison with the way other carriers bear the same costs." First Report and Order at ¶ 200 (emphasis added).

C. The FCC delegated limited, conditional authority to state commissions to implement TBNP trials on an interim basis pending completion of a national TBNP program, which will supersede the interim state trials.

National TBNP is scheduled to be effective in early 2002. Because interim measures were necessary in some cases to extend the lives of area codes in jeopardy of number exhaustion, the FCC allowed certain state commissions to conduct interim TBNP trials. The FCC stated:

> [W]e have enlisted the states to assist us in these efforts [to conserve number resources] by delegating significant authority to them to implement certain measures in their local jurisdictions. In addition to the authority to implement area code relief, we have responded to requests by individual states by conditionally granting them authority to implement some of the following number conservation measures: thousands-block number pooling trials . . ..

First Report and Order at ¶ 7. Although the FCC allowed states to implement TBNP trials, it "recognized the potential for confusion and unnecessary burdens on carriers from the impact of disparate standards in the implementation of thousands-block number pooling." First Report and Order at ¶ 120. "We agree with commenters [sic] who state that uniform standards for thousands-block number pooling are necessary to minimize the confusion and additional expense related to compliance with inconsistent regulatory requirements. We thus seek to maintain uniformity in the implementation of thousands-block number pooling on a nationwide basis." First Report and Order at ¶ 169. Thus, the FCC made clear that the "interim delegations" previously granted to the state commissions were "superseded by a nationwide number conservation strategy," and that any future delegation of authority "must conform to the national framework." *Id.*

On July 20, 2000, the FCC issued an order granting the Arizona Commission, and various other commissions, the authority to conduct TBNP trials.[8] The Delegation Order expressly requires that the state TBNP trials conform to the national framework articulated in the First Report and Order. See Delegation Order, ¶ ¶ 6, 16 ("We reiterate that state commissions receiving new delegations of pooling authority in this order must conform to the national framework as articulated in the Numbering Resource Optimization Order."). That national framework includes certain

[8] *In the Matter of Numbering Resource Optimization,* Order, CC Docket No. 99-200, 15 FCC Rcd 23371, 2000 FCC LEXIS 3752 (DA 00-1616 rel. July 20, 2000) (the "Delegation Order").

concepts codified by the FCC's regulations. For example, state commissions conducting TBNP trials must ensure that their policies:

> (1) facilitate entry into the telecommunications marketplace by making numbering resources available on an efficient and timely basis to telecommunications carriers; (2) not unduly favor or disfavor any particular industry segment or group of telecommunications consumers; and (3) not unduly favor one telecommunications technology over another.

Delegation Order at ¶ ¶ 7, 10; *see also,* 47 C.F.R. § 52.9.

Additionally, and significantly, the national framework also includes cost recovery principles. Because the national cost recovery plan is not yet in effect, "states conducting their own pooling trials ***must develop their own cost recovery mechanisms*** for the joint and carrier-specific costs of implementing and administering pooling within their states." Delegation Order at ¶ 21 (emphasis added). When determining how costs should be recovered, state commissions must follow Section 251(e)(2) "and, therefore, ensure that costs of number pooling are recovered in a competitively neutral manner." *Id.* at ¶ 22. All carriers must bear the shared costs of TBNP on a competitively neutral basis, *i.e.,* pursuant to a cost recovery mechanism that does not exclude any class of carrier, consistent with the framework established by the FCC in the First Report and Order. *Id.* The state cost recovery plans must transition to the national cost-recovery plan when it becomes effective after national TBNP is implemented. *Id.* at ¶ 21.

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III. DISCUSSION

A. Before deciding whether and when to proceed with any state trials, the Commission should consider the timing of the federal number pooling rollout, currently scheduled area code relief activities within Arizona, the status of available numbers in the 602 and 480 NPAs, and the availability of Qwest technical personnel necessary to conduct a TBNP deployment in Arizona.

The FCC recently reaffirmed that it intends to begin the federal rollout of number pooling by March, 2002: "The FCC has established a national pooling rollout schedule that is divided into three-month segments, with the first round of implementation scheduled to begin in March 2002. Starting in March 2002, number pools will be established in approximately 21 numbering plan areas (NPAs) each quarter, with an initial concentration on NPAs in the top 100 MSAs. NeuStar will establish the first quarter rollout schedule by August 2001." June 18, 2001, Press Release, Appendix A. In fact, NeuStar has already submitted a proposed schedule to the FCC.

The 602 and 480 NPAs are both Phoenix-based, and Phoenix is a top 100 MSA. Phoenix is Number 17 according to LNP rules relating to the federal rollout of number portability. It is not yet clear whether the 602 and 480 NPAs would be included in the initial federal rollout of next year, but that question will be answered when NeuStar establishes the rollout schedule this August (subject to FCC approval). The Commission should consider waiting to order any state trial until NeuStar releases that schedule, bearing in mind that the Commission will have to provide cost recovery for any state trial in advance of federal deployment.

Adopting a wait-and-see approach with regard to the federal rollout of number pooling is particularly appropriate in this situation, given that the 602 and 480 NPAs are not at risk of number exhaustion for some time. The North American Numbering Plan Association (NANPA) recently extended its estimated number exhaust date for these NPAs. See 2001 NRUF and NPA Exhaust Analysis, June 1, 2001 Update, at www.nanpa.com). The latest analysis indicates that, for these two NPAs, the earliest projected exhaust date is 1st Quarter 2006 for the 602 NPA. The 480 NPA is not projected to exhaust until 2nd Quarter 2008.

The Commission should note that if it does order state number pooling trials in any of the NPAs, it needs to allow carriers sufficient time to undertake preparations and systems work necessary for such trials, bearing in mind that many carriers are facing concurrent implementation in other states as well. If the Commission does order a trial, Qwest would require four to five months from the date of that order to prepare for the trial. This is the time necessary for Qwest to examine the existing number inventory in all switches in the pooling area. All 1,000 number blocks in these switches must be evaluated to determine which are 10% or less contaminated. Qwest must also forecast number requirements, within the pooling area, for the next 9-10 months. 1,000 number blocks to be donated to the pool must be protected so that assignments cannot be made until the pooling administrator has assigned them to a service provider. Similarly, pool software must be loaded into switches to support pooling requirements.

Furthermore, the Commission should be cognizant of the number of area codes in the process of relief for Qwest. In Arizona the demand for technical experts to conduct area code relief work for Tucson will leave no technical experts available to implement TBNP in Arizona concurrently.

Given that this Commission must provide for cost recovery if it orders a state trial, that any state trial might only save a few months over the planned federal deployment of number pooling, and that neither of the two NPAs in question are in imminent danger of exhaust, the Commission should consider awaiting the NeuStar federal rollout schedule before determining whether, and to what extent, to exercise its delegated authority to order state trials.

B. If the Commission were to fail to provide Qwest a mechanism to recover the costs it incurs as a result of TBNP, the Commission would exceed the scope of its delegated authority.

1. The FCC's delegation of authority to the Commission was predicated upon the Commission's adoption of a cost recovery mechanism that allows all carriers to recover the costs associated with TBNP, so prohibiting Qwest from recovering its costs would violate the FCC's mandate.

The TBNP trials are somewhat unique. TBNP is a federally mandated program, every aspect of which – implementation, administration, and cost recovery – ultimately will be exclusively administered by the FCC. Until the FCC implements its program, however, various state commissions, including this one, have requested and received limited, conditional authority to conduct TBNP trials. Because the FCC ultimately will implement and administer TBNP on a national level, everything the state commissions do in their TBNP trials must be consistent with the principles established by the FCC and transition to the national program. If a state commission does something inconsistent with the principles set forth by the FCC in the First Report and Order or otherwise acts in a manner that does not transition to the national program, that state commission has exceeded the FCC's delegation of authority. Failure to provide a mechanism that allows a telecommunications carrier to recover its costs associated with TBNP simply because that carrier's prices are subject to Commission regulation--such as traditional cost-of-service regulation and price cap regulation--would be inconsistent with the FCC's requirements and violate the Commission's scope of delegated authority.

One of the conditions of the authority the FCC delegated to the Commission was the requirement that the Commission develop its own competitively neutral cost recovery mechanism. The FCC was unequivocal in its instructions to the state commissions to develop and implement mechanisms that allow carriers to recover the costs associated with TBNP. Delegation Order at ¶ 21 ("states conducting their own pooling trials ***must*** develop their own cost recovery mechanisms") (emphasis added). Those cost recovery mechanisms must "ensure that the carriers recover the costs of thousands-block number pooling implementation and administration" until national TBNP is implemented and a federal cost recovery mechanism is in place. First Report and Order at ¶ 197. With respect to cost recovery, there is nothing in the First Report and Order that differentiates between carriers whose prices are regulated and carriers whose prices are not. As demonstrated *infra,* there is no basis for such a distinction. Rather, the First Report and Order requires that the states ensure that *all* carriers have a mechanism to recover their TBNP costs. *See* Delegation Order at ¶ 22 (First Report and Order "established a cost recovery mechanism that does not exclude any class of carrier."). If the Commission were to deny carriers whose prices are regulated any cost recovery mechanism for their carrier specific TBNP costs, that decision would violate the FCC's mandate that the Commission ensure that all carriers be provided a competitively neutral mechanism to recover their TBNP costs. The Commission would be acting outside the scope of its delegated authority.

2. The Act requires that cost recovery be competitively neutral, and prohibiting price regulated carriers from employing a mechanism to recover their costs while other, non-price-regulated carriers are allowed recover their costs would not be competitively neutral.

A further requirement imposed by the FCC is that the state cost recovery scheme must be consistent with Section 251(e)(2) of the Act in that it must allow all carriers to recover the costs of TBNP in a competitively neutral manner. Delegation Order at ¶ 22. The competitive neutrality requirement of Section 251(e)(2) dictates that the way each carrier bears the costs associated with TBNP must be compared with how that carrier's competitors bear those costs. First Report and Order at ¶ 200. If the cost recovery scheme results in a cost advantage for one carrier over another carrier, or it disparately affects a carrier's ability to earn a normal return, then that scheme is not competitively neutral and violates the principles outlined by the FCC and imposed on the Commission as a condition of its delegation of authority.

Denying Qwest and other price regulated carriers any mechanism to recover their carrier specific TBNP costs would fail the competitive neutrality requirement of the Act and the FCC. In its most recent rate case, Qwest accepted Staff's proposal for price cap regulation, which included a cap on Qwest's basic rates for three years. Qwest's competitors who are not subject to similar restraints on their prices and would be able to adjust their prices to recover their TBNP costs, with or without Commission review. Failing to provide a cost recovery mechanism would place Qwest and other price regulated carriers at a distinct disadvantage in relation to their competitors - the competitors would be able to recover their costs, while Qwest and other price regulated carriers would not. Qwest would be required to absorb the costs of TBNP, while other carriers would be able to pass through those costs to their customers. This treatment would unduly favor non-price-regulated carriers and, therefore, would have a disparate effect on price-regulated providers (such as Qwest) and their abilities to earn a normal return. In order to satisfy the competitive neutrality requirement of Section 251(e)(2), the Commission must provide a mechanism that allows Qwest to recover the costs associated with TBNP.

3. If the Commission prohibits Qwest and other price-regulated carriers from recovering their carrier specific TBNP costs, the Arizona cost recovery scheme would be inconsistent with the federal scheme in violation of the First Report and Order.

In its delegation of authority to the Commission, the FCC required that the Commission develop a cost recovery mechanism that is consistent with federal principles and that will transition to the national cost recovery plan, which will supersede the individual state trials and cost recovery schemes when it is implemented. Because TBNP is a federal program that must be administered by the states on an interim basis according to federal principles, the Commission cannot implement a cost recovery scheme that is inconsistent with the federal cost recovery plan. If the Commission prohibits Qwest and other price-regulated carriers from recovering their carrier specific TBNP costs, it would do exactly that.

There is no question that Qwest and other price-regulated carriers will be allowed to recover the costs they incur as a result of national TBNP. Nowhere in the Delegation Order does the FCC indicate that price-regulated carriers would be unable to recover their TBNP costs. In fact, it is consistent with past practices involving federally mandated programs to allow price-regulated carriers, including price-cap regulated carriers to recover their costs. As described herein, Qwest has been allowed to recover its costs associated with LNP, a federal mandate similar to TBNP, even though it's prices are regulated by various forms of regulation, including price cap regulation.

If the Commission adopts a cost recovery plan whereby Qwest is unable to recover its carrier specific TBNP costs, the Commission's cost recovery scheme would lead to the anomalous result that Qwest could recover its costs under the federal cost recovery mechanism but not under the state cost recovery mechanism. This would prevent a transition of the Arizona cost recovery plan to the federal cost recovery plan because the Arizona plan would treat price-regulated carriers differently from non-price-regulated carriers. This undoubtedly was the type of situation envisioned by the FCC when it cautioned against "inconsistent regulatory requirements" and required uniformity standards that comply with the national framework.

C. The mere fact that Qwest is subject to price regulation does not mean that it is barred from recovering the costs it incurs as a result of program mandated by the government.

Although Qwest's three year cap on Arizona regulated prices may preclude Qwest from recovering increases in certain operating costs and expenses traditionally considered in rate cases, the cap on Qwest's prices does not prohibit Qwest's recovery of costs associated with TBNP under the specific facts and in the legal context of this matter. Moreover, there is nothing in the nature of price cap regulation that requires Qwest to absorb the costs associated with TBNP. In fact, price cap regulation has not prevented carriers from recovering the costs associated with other federal programs, and nothing should prevent Qwest from recovering its costs associated with this federal program.

1. Price cap regulation at the federal level does not bar recovery of costs.

The FCC allows price-capped carriers to recover the costs associated with LNP, a federally mandated program that is technologically similar to TBNP and that has the same cost recovery principles. *See* First Report and Order at ¶ 193 ("In this Report and Order, we adopt cost recovery principles that are similar to those established for number portability."). Qwest recovers the costs of LNP in the form of an end-user surcharge on Arizona customers despite that fact that Qwest's regulated prices are capped in Arizona. Similarly, Qwest has been allowed to recover its costs associated with equal access dialing parity in Arizona despite the cap on its Arizona regulated prices.

When it implemented LNP, the FCC correctly recognized that where Congress mandates such exceptional expenditures by carriers, there must be a mechanism for cost recovery, regardless of the type of price regulation. The FCC did not expect price-capped carriers to simply absorb the significant costs of LNP, just as the FCC does not expect price-capped carriers to simply absorb the significant costs of TBNP.

2. State price cap regulation does not prohibit Qwest from recovering its TBNP costs.

Whether a carrier is price-cap regulated at the state level makes no difference when it comes to recovery of costs associated with expenditures that are mandated by the federal government. Other state commissions have allowed carriers that are subject to price cap regulation to recover costs associated with federal requirements. For example, the Minnesota Public Utilities Commission addressed the question of whether Qwest's end-user surcharge for LNP violated its approved AFOR plan, which established price caps for services. That commission upheld Qwest's ability to recover its costs through an end-user surcharge, stating:

> USWC[9] incurred real costs to provide LNP, and USWC is entitled to make an appropriate recovery of those costs. The surcharge does not "undo" the benefits of the AFOR plan. Rate payers will continue to receive the $67.9 million rate reduction relative to what rates likely would have been if the Commission had not approved the AFOR; USWC would be entitled to impose its LNP surcharge whether or not the Commission had approved the AFOR plan. A rate decrease followed closely by a rate increase may be disappointing, but it is not inherently improper or unfair.

In the Matter of a Petition by U S WEST Communications, Inc. Requesting Approval of an Alternative Regulation Plan, Docket No. P-421/AR-97-1544, 2000 Minn. PUC LEXIS 35, *15 (Minn. Public

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[9] "USWC" refers to U S WEST Communications, Inc., the predecessor entity to Qwest.

Util. Comm'n Apr. 19, 2000).

This decision illustrates the fact that carriers subject to a price cap under state law are able to recover the costs associated with special federal programs such as TBNP or LNP. The price regulation of carriers, or lack thereof, differs from state to state. Allowing state commissions to determine whether to permit recovery of the costs associated with federally mandated programs based on that state's particular form of price regulation would result in inconsistent standards being applied from jurisdiction to jurisdiction. That is not what Congress intended when it gave the FCC exclusive jurisdiction over numbering administration, and that is not what the FCC intended when it delegated limited, conditional authority to the Commission to implement TBNP trials.

D. Rate center consolidation.

In Paragraph (G), Staff's recommendation is to implement rate center consolidation where multiple rate centers currently have the same local calling area and that such rate center consolidations become effective within twelve months of this order. Staff further allowed for carriers to submit comments within 30 days of the effective date of this order identifying any concerns with the rate center consolidation set forth in Finding of Fact 46.

Qwest has already filed comments with both the FCC and the Arizona commission on this issue. In comments to the FCC filed March 7, 2001 in response to comments to the Second Further

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Notice of Proposed Rulemaking, "Qwest supports those commentors [sic] who argue that rate center consolidations are matters that must be left up to the states to resolve on a case-by-case basis." Comments filed with this commission in this docket in March of this year stated "Qwest studied the rate centers in Arizona in October of 2000 and came to the conclusion that the thirteen that share common local calling are not strong candidates for consolidation. If these thirteen rate centers had been consolidated into four as of January 1999, a total of two NXX codes would have been saved over two years. Based upon the concern we have for creating multiple switch rate centers and the potential negative impact on our ability to qualify for additional numbering resources on a rate center basis, we do not recommend these rate center consolidations take place at this time." (Note: the initial analysis did not include rate centers that were on the exchange sale list at the time. The current list of rate centers would require a totally new analysis)

Qwest does support the staff's recommendation that "at this time, consolidation of rate centers that do not currently have the same local calling area" should not occur. While Qwest is not opposed to rate center consolidations where NXX codes would be saved, wholesale rate center consolidation where there is no expected savings of NXX codes would not be warranted. The record in this case has not allowed for an examination of the local calling areas in Finding of Fact 46 to know whether individual service provider number exhaust is an imminent threat in any of the local calling areas. Qwest would recommend that this examination take place prior to any order requiring that the rate center consolidations occur.

If after this examination has occurred and the record demonstrates that the rate center consolidation would benefit number conservation, Qwest would proceed to implement the consolidation(s).

IV. CONCLUSION

Based on the foregoing, Qwest requests the Commission issue an Order that delays thousands block number pooling in the 602 and 480 NPA of the Phoenix MSA until such time as it can be implemented under the FCC's national number pooling plan and schedule. Further, Qwest requests that if the Commission does order implementation of a TBNP trial in Arizona before national deployment, that it also provide in such order a specific mechanism by which Qwest may recover all the costs it incurs to implement the trial so ordered. Specifically, Qwest requests that the Commission order an end-user surcharge on Qwest's

Arizona customers that will allow Qwest to recover all costs it incurs to implement a TBNP trial.

RESPECTFULLY SUBMITTED this 24th day of August, 2001.

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APPENDIX A

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FEDERAL COMMUNICATIONS COMMISSION'S COMMON CARRIER BUREAU SELECTS NEUSTAR, INC. AS NATIONAL THOUSANDS-BLOCK NUMBER POOLING ADMINISTRATOR

Washington, D.C. – Today, the Federal Communications Commission's (FCC) Common Carrier Bureau announced that it has selected NeuStar, Inc. (NeuStar) as the National Thousands-Block Number Pooling Administrator. NeuStar will serve as the designated entity responsible for administering thousands-block number pools by assigning, managing, forecasting, reporting and processing data that will allow service providers in areas designated for thousands-block number pooling to receive telephone numbers in blocks of 1,000. NeuStar has been awarded a one-year contract with four one-year options (for a potential term of five years) to be exercised at the discretion of the FCC. NeuStar currently serves as the North American Numbering Plan Administrator.

The FCC has established a national pooling rollout schedule that is divided into three-month segments, with the first round of implementation scheduled to begin in March 2002. Starting in March 2002, number pools will be established in approximately 21 numbering plan areas (NPAs) each quarter, with an initial concentration on NPAs in the top 100 MSAs. NeuStar will establish the first quarter rollout schedule by August 2001.

The selection of a National Thousands-Block Number Pooling Administrator was one of the issues raised in the *Numbering Resource Optimization* proceeding (CC Docket 99-200). Other issues raised and not yet resolved in that proceeding include: service-specific and technology-specific overlays, fees for number reservations, thousands-block number pooling for non-Local Number Portability-capable carriers, and cost recovery for pooling.

Docket No.: CC 99-200

-FCC-

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APPENDIX A